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SUPREME COURT OF THE UNITED STATES.

No. 180.

WILLIAM F. BRYAN AND RUDOLPHUS ROUSE,
PLAINTIFFS IN ERROR,

vs.

ROBERT FORSYTH.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE NORTHERN DISTRICT OF ILLINOIS.

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UNITED STATES OF AMERICA,
Northern district of Illinois.

Pleas in the circuit court of the United States for the northern district of Illinois, held at the city of Chicago, in the district aforesaid, before the Hon. Thomas Drummond, judge of the district court of the United States for said northern district of Illinois, and in the absence of the Hon. John McLean, one of the justices of the Supreme Court of the United States, sole judge of said circuit court, on Thursday, the nineteenth day of July, in the year of our Lord one thousand eight hundred and fifty-five, and of our independence the eightieth year.

ROBERT FORSYTH
vs.
WILLIAM F. BRYAN AND RUDOLPHUS ROUSE. } Ejectment.

Be it remembered, that heretofore, to wit, on the 24th day of December, in the year of our Lord one thousand eight hundred and fifty-two, in the December term, A. D. 1852, of the circuit court of the United States for the district of Illinois, at Springfield, came into court the said Robert Forsyth, plaintiff, by H. O. Merriman, his attorney, and filed in open court the declaration and notice in said entitled cause, in the words and figures following, to wit:

In the circuit court of the United States in and for the district and State of Illinois—of the December term, in the year of our Lord one thousand eight hundred and fifty-two.

UNITED STATES OF AMERICA,
District and State of Illinois.

Robert Forsyth, plaintiff in this suit, citizen of the State of Missouri, one of the United States of America, complains of William F. Bryan and Rudolphus Rouse, defendant in this suit, who are citizens and inhabitants of the State of Illinois, in the United States of America, of a plea, wherefore they the said defendants, with force and arms, &c., entered into the following described premises: For that heretofore, to wit, on the first day of January, in the year of our Lord one thousand eight hundred and fifty, the said plaintiffs were possessed of certain premises, situated in the county of Peoria, in the said State of Illinois, and described as follows, to wit: That part of lot seven (7) in the village of Peoria, in said county, confirmed to Thomas Forsyth by virtue of the confirmatory act of Congress of the United States, of 3d March, 1823, entitled an act to confirm certain claims to lots in the village of Peoria, in the State of Illinois, bounded as follows, to wit: Commencing at the most southerly corner of said lot, running thence north 46½ degrees west, on the line of said lot one hundred and nineteen feet; thence north 50 degrees east thirty feet; thence south 4½ degrees east, one hundred and sixteen feet; thence south 43½ degrees west nineteen feet, to the said place of beginning.

And being so possessed thereof, the said defendants, afterwards, to wit, on the first day of February, in the year of our Lord one thousand eight hundred and fifty, entered into such premises, and that they unlawfully withhold from the plaintiff the possession thereof. And said plaintiff avers, that he claims title to said premises in fee, and that said plaintiff is citizen and inhabitant of the State of Missouri, in the United States of America, and that they, the said defendants, are citizens and inhabitants of the State of Illinois, in the United States of America; and said plaintiff avers that the afore-described premises, being the matter in dispute, exceed, exclusive of costs, the sum or value of five hundred dollars. Wherefore said plaintiff says that he is injured and has sustained damages to a large amount, to wit, one thousand dollars, and therefore he sues, &c.

H. O. MERRIMAN, *Attorney for Plaintiff.*

To the above-named Defendant:

Take notice, that on the first day of the next term of the circuit court of the United States, within and for the district and State of Illinois, to be held at the city of Springfield in said State of Illinois, on the third Monday of December, A. D. one thousand eight hundred and fifty-two, or as soon thereafter as counsel can be heard, a declaration, of which the above is a copy, will be filed in said court.

That upon filing the same a rule will be entered requiring you, such defendant, to appear and plead to such declaration within twenty days after the entry of such rule.

That if you neglect so to appear and plead, a judgment by default will be entered against you, and the plaintiff will recover possession of the premises described in said declaration.

Yours, &c., H. O. MERRIMAN,
Dated Aug. 11th, 1852. *Attorney for Plaintiff.*

UNITED STATES OF AMERICA,
State and district of Illinois, ss:

ROBERT FORSYTH
vs.
WM. F. BRYAN and RUDOLPHUS ROUSE. } Ejectment.

S. A. Corneau, being duly sworn, deposes and says, that he did, on the thirteenth day of August, A. D. 1852, personally serve Wm. F. Bryan and Rudolphus Rouse, the defendants in this suit, who are the actual occupants of the premises, for which this action was brought, with a true copy of the declaration hereunto annexed and also a true copy of the notice in writing, to the said declaration subjoined, and likewise hereunto annexed; and further this deponent saith not.

S. A. CORNEAU.

Subscribed and sworn to before me, this 20th day of Dec'r, A. D. 1852. WM. POPE, *Clerk.*

We hereby acknowledge ourselves to be in possession of the southwesterly half of lot No. 4, in block No. 50 of Bigelow & Underhill's

addition to the city of Peoria, in the county of Peoria, State of Illinois, this 12th August, A. D. 1852.

WM. F. BRYAN,
R. ROUSE.

Endorsed: Filed Dec. 24th, 1852.

WM. POPE, *Clerk.*

And on the same day, to wit, the 24th day of December, in the December term, A. D. 1852, of said circuit court for said district of Illinois, in the record of the proceedings thereof in said entitled cause, is the following entry, to wit:

ROBERT FORSYTH
vs.
WM. F. BRYAN and RUDOLPHUS ROUSE. } Ejectment.

This day came the plaintiff, by his attorneys, and filed his declaration herein, together with the notice in writing thereto attached, and upon reading and filing an affidavit of a due service of a true copy of said declaration and notice upon said defendants, it is ordered, on motion of said plaintiff, by his said attorneys, that defendants plead thereto in twenty days, or that his default be entered.

And afterwards, to wit, on the 7th day of January, A. D. 1853, the said defendants, by their attorney, filed in the office of the clerk of said circuit court their plea in said entitled cause, which is in the words and figures following, to wit:

CIRCUIT COURT UNITED STATES,
District of Illinois.

December Term, A. D. 1852.

WILLIAM F. BRYAN, RUDOLPHUS ROUSE,
ats.
ROBERT FORSYTH.

And the said defendants, by William F. Bryan, their attorney, come and defend the force and injury, when, &c., and say they are not guilty of unlawfully withholding from the said plaintiff the possession of the premises in the said declaration mentioned, in manner and form as the said plaintiff has alleged. And of this they put themselves upon the country, &c.

WILLIAM F. BRYAN,
Att'y for Defts.

Endorsed: Filed Jan'y 7th, 1853.

WM. POPE, *Clerk.*

And afterwards, to wit, on the 19th day of January, A. D. 1855, in the December term, A. D. 1854, of said circuit court, in the record of the proceedings thereof in said entitled cause, before the Hon. Thomas Drummond, district judge, is the following entry, to wit:

ROBERT FORSYTH
vs.
WILLIAM F. BRYAN and RUDOLPHUS ROUSE. } Ejectment.

This day came the parties, by their attorneys; and issue being joined, by agreement a jury is waived, and this cause is submitted to the court for trial; and the court, having heard the evidence, finds the defendants guilty of unlawfully withholding from the possession of the said plaintiff the premises in the declaration described, to wit: "That part of lot No. seven (7,) in the village of Peoria, in said county, confirmed to Thomas Forsyth by virtue of the confirmatory act of Congress of the United States of 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," bounded as follows, to wit: commencing at the most southerly corner of said lot, running thence north 46½ degrees west on the line of said lot one hundred and nineteen feet; thence north 50 degrees east thirty feet; thence south 41½ degrees east one hundred and sixteen feet; thence south 43½ degrees west nineteen feet, to the said place of beginning."

"The court further finds, that, at the time of the commencement of this suit, the plaintiff was, and still is, the owner in fee simple of said described premises, and assesses his damages at one cent."

It is therefore considered and *and* adjudged by the court, that the said plaintiff recover of and from the said defendants the possession of the above described premises, according to the finding of the court. And it is further ordered, that the said plaintiff recover of and from the said defendants his costs, damages, and charges herein expended, amounting to the sum of dollars and cents, and that he have a writ of possession for said premises and an execution for costs.

And afterwards, to wit, on the 22d day of January, A. D. 1855, in said December term, A. D. 1854, of said circuit court, in the record of the proceedings thereof in said entitled cause is the following entry, to wit:

ROBERT FORSYTH
vs.
WILLIAM F. BRYAN and RUDOLPHUS ROUSE. } Ejectment.

This day came the defendants, by their attorney, and move the court to grant them a new trial herein, under the statute in such case made and provided; and it appearing to the satisfaction of the court, that all the damages and costs taxed in this cause have been paid, it is therefore considered and adjudged by the court, that the judgment rendered herein, on the 19th day of January, of this court, be vacated, set aside, and for nothing held; and that this cause be reinstated on the docket, and a new trial had herein.

And afterwards, to wit, on the 19th day of July, in the July term, A. D. 1855, of said circuit court, the Hon. Thomas Drummond, district judge, presiding, in the record of the proceedings thereof in said entitled cause is the following entry, to wit:

ROBERT FORSYTH
vs.
WILLIAM F. BRYAN, RUDOLPHUS ROUSE. } Ejectment.

On motion of the plaintiff, by his attorney, it is ordered by the court, that the order of continuance heretofore entered in this cause be set aside and vacated. And now come the parties by their attorneys; and upon issue joined, thereupon came a jury of good and lawful men, to wit: Asa Howe, James Parker, A. J. Haviland, M. S. Johnson, Samuel Gilbert, R. O. Old, J. D. Pierce, B. F. Hays, Jas. S. Taylor, Nathan Allen, George W. Prickett, and Albert B. Clark, who were duly elected, tried, and sworn; and after hearing the evidence and receiving instructions from the court, the jury returned the following verdict, to wit:

We, the jury, find the defendants guilty of unlawfully withholding from the possession of the plaintiff the land and premises described in the plaintiff's declaration, to wit: That part of lot number seven, (7,) in the village (now city) of Peoria, in the county of Peoria and State of Illinois, confirmed to Thomas Forsyth, by virtue of the confirmatory act of Congress of the United States of 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," bounded as follows, to wit: commencing at the most southerly corner of said lot, running thence north 46½ degrees west on the line of said lot one hundred and nineteen feet; thence north 50 degrees east thirty feet; thence south 46½ degrees east one hundred and sixteen feet; thence south 43½ degrees west nineteen feet, to the place of beginning. We find the estate established in the plaintiff on the trial, to be an estate in fee-simple, and we assess the damages of the plaintiff at the sum of one cent.

It is thereupon considered and adjudged by the court, that the plaintiff have and recover against the said defendants possession of the said described premises, according to the force, form, and effect of his said recovery, and that he have a writ of possession therefor; and, also, that he have and recover of the defendants his costs and charges by him about his suit in this behalf expended, amounting to the sum of dollars and cents, and that he have execution therefor.

And on the same day, to wit, the 19th day of July, A. D. 1855, the said defendants, by their attorney, filed in said court, with the clerk thereof, their bill of exceptions, in the words and figures following, to wit:

ROBERT FORSYTH
vs.
WILLIAM F. BRYAN,
RUDOLPHUS ROUSE. } In Ejectment.

Be it remembered, that on the trial of the above entitled cause, the plaintiff, to maintain the issues on his part, introduced in evidence:

1st. A patent to the legal representatives of Thomas Forsyth, which is in the words and figures following, to wit:

THE UNITED STATES OF AMERICA.

To all to whom these presents shall come, greeting:

Whereas there has been deposited in the General Land Office a certificate numbered sixteen, of the register and receiver of the land office at Edwardsville, Illinois, whereby it appears, that in the report dated 10th November, 1820, of Edward Coles, register of the land office at Edwardsville, Illinois, the claim of Thomas Forsyth, under John Baptist Maillet, and in right of his own occupancy and cultivation, is entered as number seven; and whereas it further appears from the certificate aforesaid, that the said John Baptist Maillet is the inhabitant or settler within the purview of the confirmatory act of Congress, approved 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois;" and that it has appeared, to the satisfaction of the said register and receiver, that the said inhabitant or settler did not, prior to the said act of 3d March, 1823, receive "a confirmation of claims or donation of any tract of land or village lot from the United States," and that the legal representatives of the said Thomas Forsyth under said Maillet, in virtue of the confirmatory act aforesaid, are entitled to a patent for a certain lot, described as follows, to wit: The lot containing one hundred and two thousand nine hundred and thirty-three square feet and ninety-three hundredths of a square foot, surveyed and designated as covered by said claim number seven, excluding therefrom the tract or portion of said lot containing twenty-seven thousand four hundred and forty-nine square feet and seven-hundredths of a square foot, covered by claim number fourteen of Jacques Metté, also under said Maillet; said claim number seven being situated in the southeast fractional quarter of fractional section nine in township eight, north of range eight, east of the fourth principal meridian, Illinois, according to the survey approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri; and whereas, in the confirmatory act aforesaid of the 3d March, 1823, it is *provided*, that "nothing in this act contained shall be so construed as to affect the right, if any such there be, of any other person or persons to the said lots, or any part of them, derived from the United States, or any other source whatever," &c. :

Now know ye, that in consideration of the premises, and pursuant to the second section of the act aforesaid of the 3d March, 1823, there is granted by the United States to the legal representatives of the said Thomas Forsyth, and to their heirs, subject to the proviso aforesaid, the lot of land above described as covered by the said claim number seven, but expressly excluding therefrom the portion of the said lot covered by claim number fourteen aforesaid: To have and to hold the said lot of land, with the appurtenances, unto the said legal representatives of Thomas Forsyth, and to their heirs and assigns forever, subject to the proviso and exclusion aforesaid.

In testimony whereof, I, James K. Polk, President of the United

States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, the sixteenth day of December, in the year of our Lord one thousand eight hundred and forty-five, and of the independence of the United States the seventieth.

[SEAL.]

By the President: JAMES K. POLK.
By J. KNOX WALKER, *Sec'y.*

S. H. LAUGHLIN,
Recorder of the General Land Office.

Recorded vol. 10, pages 97 & 98.

2nd. A plat of French lot seven, which is as follows:

[*For plat see original, page* 16.]

3rd. The general survey of the French village made by Joseph C. Brown, which is as follows:

[*For plat see original, page* 17.]

4th. An act of Congress, approved the 15th of May, 1820, entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois."

5th. An act of Congress, approved the 3d day of March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois."

6th. The printed report of Edward Coles, register of the land office at Edwardsville, made to the Secretary of the Treasury of the United States, as the same is found in print, in the third volume of American State Papers, from pages 421 to 431, inclusive.

To the introduction of which, defendant objected, because it was not, without proof of its authenticity, legal evidence. But the court overruled said objection, and said report was given in evidence to the jury.

7th. A stipulation, which is signed by the attorney of the respective parties, which is as follows:

Forsyth vs. Bryan & Rouse.
Same vs. Reynolds.
Same vs. McClure.
Same vs. Kellogg.

It is agreed, that upon the trial of the above cases, that it shall be admitted that the plaintiff has the title of Thomas Forsyth in and to the land sued for, by descent and purchase, and conveyance; and also that the defendants have had the actual possession of the land for which they are respectively sued, by residence thereon, for ten years next preceding the commencement of *the* these suits, and that John L. Bogardus, under whom they claim, had possession of part of the S. E. fractional quarter of section nine, in township eight, north of range eight east, upon which the land sued for is situated, claiming the same under pre-emption right more than twenty years before the commencement of these suits, but he never had the actual possession of that part of said fractional quarter-section sued for in these actions. And that said defendants respectively had vested in them, before the commencement of this suit, all the right, title, and interest which said Bogardus's possession, pre-emption, and patent conferred on him.

WILLIAMS & LAWRENCE,
Att'ys for Pl'ff.

C. BALLANCE,
Attorney for Def'ts.

Whereupon the defendant, to support the issue on his part, introduced in evidence a patent from the United States to John L. Bogardus, which is as follows:

Certificate No. 13,238.

The United States of America, to all to whom these presents shall come, greeting:

Whereas John L. Bogardus, of New York county, New York, has deposited in the General Land Office of the United States a certificate of the register of land office at Quincy, whereby it appears that full payment has been made by the said John L. Bogardus, according to the provisions of the act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," for the southeast fractional quarter of section nine, in township eight, north of range eight east, in the district of lands subject to sale at Quincy, Illinois, containing twenty-three acres and ninety-three hundredths of an acre, according to the official plat of the survey of the lands returned to the General Land Office by the surveyor general, which said tract has been purchased by the said John L. Bogardus: Now know ye, that the United States of America, in consideration of the premises, and in conformity with the several acts

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of Congress in such case made and provided, have given and granted, and by these presents do give and grant unto the said John L. Bogardus and to his heirs, the said tract above described, to have and to hold the same, together with all and singular the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said John L. Bogardus, and to his heirs and assigns forever, subject, however, to all the rights of any and all persons claiming under the act of Congress of 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois." In testimony whereof, I, Martin Van Buren, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the fifth day of January, in the year of our Lord one thousand eight hundred and thirty-eight, and of the independence of the United States the sixty-second.

[SEAL.]

MARTIN VAN BUREN,
By A. VAN BUREN, *Sec'y.*

H. M. GARLAND,
Recorder of the Gen. Land Office.

Recorded vol. 1, page 149.

It was further admitted that the property in question was, at the commencement of this suit, and now is, worth more than two thousand dollars, and is a part of the same French claim No. seven, which was in question in the United States Supreme Court, in the case of Reynolds et al. vs. Robert Forsyth. And that said Robert Forsyth, the plaintiff in this suit, and the defendant in that suit, is the son of Thomas Forsyth, and that his father, Thomas Forsyth, is the same Thomas Forsyth who received from the United States two tracts of land at Gross Point, near Detroit, and afterwards claimed the above lot seven, at Peoria, under the act of Congress of 3rd March, 1823, as is set forth in said suit in chancery. And that the above was all the evidence in this cause.

Defendants then asked the court to instruct the jury as follows, to wit: That the title of defendants to the land in controversy is paramount, at law, to the title presented by plaintiff, and consequently their verdict should be for the defendants.

2d. That, by the laws of Illinois, the defendants have such title as would bar an action of ejectment, after seven years, by actual residence; and if they believe, from the evidence, that defendants have so long had such possession, the plaintiff cannot succeed in this suit.

3rd. That, if they believe, from the evidence, that defendants hold under John L. Bogardus, and that they and said Bogardus and the others through they hold, had together been in possession of premises in the manner stated in said stipulation, more than twenty years before the commencement of this suit, that then plaintiff cannot recover in this action.

4th. That, if the jury believe, from the evidence, said Bogardus was

in actual possession of a part of said southeast quarter-section, claiming the whole under a pre-emption right, his legal possession extended to whole of said tract that was vacant and unoccupied.

Which instructions the court refused to give, but instructed the jury that the Bogardus patent did not grant or convey the ground in controversy; and it being conceded that was the only title the defendant had, there is no such title as, under the statutes of limitations, protects the possession of the defendant.

To all of which opinions, rulings, and decisions, defendants, by their counsel, Ballance, then and there excepted, and prayed that this, his bill of exceptions, be sealed, signed, and made of record, which is done.

THOMAS DRUMMOND. [SEAL.]

July 19th, 1855.

Endorsed: Filed July 19th, 1855.

WM. H. BRADLEY, *Clerk.*

And afterwards, to wit, on the 23rd day of July, A. D. 1855, the said defendants, by their attorney, filed in open court, with the clerk thereof, an appeal bond, together with a power of attorney attached thereto, from said defendants to Charles Ballance. Which said power of attorney and bond are in the words and figures following, to wit:

Know all men that we, Rudolphus Rouse and William F. Bryan, of the city of Peoria, in the State of Illinois, do hereby appoint Charles Ballance our attorney, for us and in our names to pray and take an appeal from any judgment or judgments that may be, or has, or have been, rendered against us, or any decree or order that may be or has been made against us, in and by the circuit court of the United States, in and for the district of Illinois, at Springfield, in said State, in a certain suit at law, wherein Robert Forsyth is plaintiff, and we are defendants; and also in a certain cause in equity, wherein we are complainants, and said Forsyth defendant. Such appeal to be taken to the Supreme Court of the United States, and to execute the necessary bonds or bond, and to do all such other acts and things, under seal or otherwise, as may be proper in the premises; hereby ratifying all that our said attorney may lawfully do by virtue hereof.

Witness our hands and seals this 3rd day of January, A. D. 1855.

WM. F. BRYAN, [SEAL.]
RUDOLPHUS ROUSE. [SEAL.]

In the Circuit Court of the United States for the northern district of Illinois, of the July Term, A. D. 1855.

WILLIAM F. BRYAN,
RUDOLPHUS ROUSE,
vs.
ROBERT FORSYTH.
} In Error.

Know all men by these presents, that we, William F. Bryan, Rudolphus Rouse, and Charles Ballance, are held and firmly bound unto

the above-named Robert Forsyth, in the sum of ($2,000) two thousand dollars, to be paid to the said Robert Forsyth, his executors or administrators; to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated this 21st day of July, 1855. Whereas, the said William F. Bryan and Rudolphus Rouse have prosecuted a writ of error to the Supreme Court of the United States, to reverse the judgment rendered in the above entitled cause by the circuit court for the northern district of Illinois:

Now, therefore, the condition of this obligation is such, that if the above-named William F. Bryan and Rudolphus Rouse shall prosecute their said writ of error to effect, and answer all damages and costs if they shall fail to make good their plea, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

Sealed and delivered in presence of—

WILLIAM F. BRYAN, [SEAL.]
By his attorney in fact, [SEAL.]
C. BALLANCE. [SEAL.]
RUDOLPHUS ROUSE, [SEAL.]
By his attorney in fact,
C. BALLANCE. [SEAL.]
C. BALLANCE. [SEAL.]

Endorsed: Approved.

THOMAS DRUMMOND.

Also endorsed: Filed July 23d, 1855.

WM. H. BRADLEY, *Clerk.*

And on the next day, to wit, the 24th day of July, A. D. 1855, the said plaintiffs in error, by Charles Ballance, their attorney, filed in said court, with the clerk thereof, their writ of error in the said cause, in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern district of Illinois, ss:

The United States of America, to the judges of the Circuit Court of the United States for the northern district of Illinois, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said court before you, between Robert Forsyth and against William F. Bryan and Rudolphus Rouse, a manifest error hath happened, to the great damage of the said William F. Bryan and Rudolphus Rouse, as by their complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that

you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Hon. Roger B. Taney, chief justice of the said [SEAL.] Supreme Court of the United States, this 23d day of July, A. D. 1855, and of our independence the 80th year.

WM. H. BRADLEY, *Clerk.*

Endorsed: Filed July 24th, 1855.

WM. H. BRADLEY, *Clerk.*

Northern district of Illinois, ss:

I, William H. Bradley, clerk of the circuit court of the United States for said northern district of Illinois, do hereby certify that the foregoing transcript contains a true, full, and correct copy from the record of all the proceedings which have been had in said court for the district of Illinois, and also for said northern district, in said cause of Robert Forsyth against William F. Bryan and Rudolphus Rouse.

In testimony whereof, I have hereunto set my hand and [L. S.] affixed the seal of said court, at my office in Chicago, in said district, this 18th day of January, A. D. 1856.

WM. H. BRADLEY, *Clk.*

$7\frac{15}{100}$ for this record, paid by C. Ballance to Wm. H. Bradley, cl'k.

Said defendants, Bryan and Rouse, by their attorney, C. Ballance, come, &c., and say, that in the record and proceedings aforesaid, and also in the rendition of said judgment, there is manifest error in this, to wit:

1st. There is nothing in the proof set forth in *in* said record to show that the S. W. half of lot four, which defendants admit themselves to be in possession of, in any wise interferes with said lot seven sued for.

2d. The court erred in permitting said printed volume to be read to the jury.

3d. The court erred in refusing to give said instructions to the jury that was prayed for by defendants counsel.

4th. Said court erred in giving to the jury the instructions that were given.

5th. Said judgment ought to have been given for said defendants, and not for said plaintiff.

Wherefore, on account of said errors, and others manifestly in said record appearing, they, the said defendants, pray that said judgment may be set aside, annulled, and for nothing esteemed.

C. BALLANCE,
For defendants.

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